taking into account delinquent payments or prepayments.

(b) With respect to mortgages approved for insurance under this part on and after January 5, 1976, after payment of the initial MIP an annual MIP shall be paid in an amount equal to seven-tenths of one percent of the average outstanding principal obligation for the 12-month period preceding the date on which the premium becomes payable, without taking into account delinquent payments or prepayments.

§ 235.205 Deed in lieu of foreclosure.

All of the provisions of § 203.357 of this chapter relating to the acceptance of a deed in lieu of foreclosure shall apply to mortgages insured under this part, except that where a family unit in condominium is involved, the deed in lieu of foreclosure may be accepted only if the mortgagee establishes to the satisfaction of the Secretary that there are no unpaid assessments owed to the association or cooperative of owners.

§ 235.206 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided under this section. The Commissioner may release a mortgagor from personal liability on any second mortgage note it holds in connection with its approval of a substitute mortgagor under this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part only if the mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1) of this chapter) and only if the mortgagor meets all applicable requirements of this part.

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* As used in this section, the term *substitute mortgagor* includes:

(1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts; and

(2) Persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

[55 FR 34814, Aug. 24, 1990]

§ 235.215 Method of paying insurance benefits.

If the application for insurance benefits is acceptable to the Secretary, the insurance claim shall be paid in cash, unless the mortgagee files a written request with the application for payment in debentures.

[59 FR 49817, Sept. 30, 1994]

§ 235.220 Condition of property.

All of the provisions of § 203.379 relating to the adjustment of the insurance claim for damage or neglect and all of the provisions of § 203.380 of this chapter requiring the mortgagee to certify as to the condition of the property shall apply to mortgages insured under this subpart with the exception of mortgages involving condominium units. Sections 235.230 and 235.235 contain the comparable provisions applicable to mortgages involving condominium units.

[41 FR 1176, Jan. 6, 1976, as amended at 42 FR 29306, June 8, 1977]

Special Provisions Applicable Only to Mortgages Involving Condominium Units

§ 235.221 Waived title objections.

(a) General provisions. All of the provisions of § 203.389 of this chapter (relating to the waiver by the Secretary of objections to title) shall apply to mortgages insured under this subpart, with the exception of mortgages involving condominium units.

(b) *Provisions applicable to condominiums.* Where the mortgage involves a condominium unit, the Secretary shall not object to title by reason of the following matters:

(1) Violations of a restriction based on race, color or creed, even where such restriction provides for a penalty of reversion or forfeiture of title or a lien for liquidated damage.

(2) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(3) Encroachments on the subject property by improvements on adjoining property, provided such encroachments do not interfere with the use of any improvements on the subject property.

(4) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(5) Customary buildings or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

(6) Federal tax liens and rights of redemption arising thereform if the following conditions are observed. If the mortgagee acquired the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if (i) the Federal tax lien was perfected subsequent to the date of the mortgage lien, and (ii) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

[41 FR 1176, Jan. 6, 1976, as amended at 42 FR 29306, June 8, 1977]

§ 235.225 Changes in plan of apartment ownership.

The mortgagee shall notify the Secretary of any change in the plan of apartment ownership and in the administration of the property. Such notification shall be given either at the time of the conveyance of the property or at the time of the assignment of the mortgage. Any change in such plan shall require approval by the Secretary.

§ 235.230 Condition of multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Secretary, the family unit and the common areas and facilities (including restricted common areas and facilities) designated for the particular unit shall be undamaged by fire, flood, earthquake, tornado, or boiler explosion, or, as to mortgages insured on or after June 8, 1977, due to failure of the mortgagee to take action as required by § 203.377. If the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Secretary.

(2) With the prior approval of the Secretary, the property may be conveyed or the mortgage assigned to the Secretary without repairing the damage. In such instances, the Secretary shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever amount is the greater.

(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Secretary without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance company shall have later canceled or refused to renew the policy.

(3) The mortgagee shall have notified the Secretary within 30 days (or within such further time as the Secretary may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were